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EXAMINER
FERNANDES, CHERYL M

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 July 2002*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-10 and 12* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-10 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to Amendment filed July 15, 2005. Claims 1-

6, 8-10 and 12 are pending. Claims 1 and 8 are amended. Claim 11 is cancelled. Claim

12 is added.

Response to Arguments

2.   Referring to the objection to the Oath/Declaration, Applicant's provision of a

complete application data sheet that includes the mailing address, city and state or

foreign country of residence of each inventor is acknowledged. As such, the objection to

the Oath/Declaration is withdrawn.

3.   Referring to the objection to the specification, Applicant's amendment to the

specification is acknowledged. As such, the objection to the specification is withdrawn.

4.   Referring to the 35 USC 112 second paragraph rejection of claim 1, Applicant's

amendment to the claim is acknowledged. As such, the 35 USC 112 second paragraph

rejection of claim 1 is withdrawn.

Applicant's arguments with respect to claims 1-6 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

5.   Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent Number 5,933,630 issued to Ballard et al (hereafter Ballard).

Referring to claim 1, Ballard discloses a method for keeping a copy of data,

wherein a primary database server is coupled to a primary data store, wherein the

primary database server receives database events from an external source and

generates signals for accessing the primary data store (Abstract; Fig. 1), the method

comprising:

- using a tracking process to store at least a portion of the received database

  events in an event log (hard disk accesses are stored in a log file, Abstract;

  col. 2, lines 4-10; col. 5, lines 10-55);

- processing the event log to eliminate one or more events stored therein that

  have been rendered irrelevant (log file is processed to eliminate duplicate

  cluster accesses, Abstract; col. 2, lines 22-25; col. 7, lines 15-45);

- using the event log to update a secondary data store (the entries in the

  processed log file are moved to a RAM cache, thereby updating the RAM

  cache, Abstract; col. 2, lines 22-36; col. 7, line 54 – col. 8, line 21).

Referring to claim 1, 1st paragraph, the recitation of a primary data store has not

been given patentable weight because the recitation occurs in the preamble. A

preamble is generally not accorded any patentable weight where it merely recites the

purpose of a process or the intended use of a structure, and where the body of the

claim does not depend on the preamble for completeness but, instead, the process

steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190

USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481

(CCPA 1951). Moreover, the examiner respectfully submits that the claims, as such, do

not require that the primary data store function in particular manner. Furthermore, the

examiner respectfully asserts that the claims, as such, do not even require that the

primary data store be functionally related to or used with the limitations in the body of

the claim.

Referring to claim 4, Ballard discloses that the external source includes an

application program (Abstract; col. 2, lines 21-36).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

6.   Claims 8-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ballard.

Referring to claim 8, Ballard discloses a method for maintaining copies of data,

wherein an application program sends events to a database server, wherein the

database server generates database transactions to modify a primary copy of data, the

method (Abstract; col. 3, lines 40-62) comprising:

- storing a record of the events as an original event log (file accesses are

    logged in a launch access log, col. 2, lines 4-10 and 21-25; Abstract);

- using the original event log or a portion thereof to maintain a copy of the data

    at a plurality of secondary data site (the launch access log is stored in and

processed from an application program and a RAM cache, Abstract; col. 2,

lines 22-36; col. 3, lines 40-63); wherein at least one of the plurality of

secondary data site receives a series of events in an order different from the

order of events in the original event log (the RAM cache receives a sorted

(processed) log access file, that is different from the original log file that is

unsorted and could contain duplicate accesses, see Abstract; col. 2, lines 22-

36; col. 6, line 50 – col. 8, line 26); and

-   using the received different-order events to update data at the at least one of

    the plurality of secondary data sites (the memory blocks specified in the

    sorted (processed) log access file are moved into the RAM cache thereby

    updating the cache, col. 8, lines 15-21).

While Ballard discloses all of the above, discloses maintaining a single access

log and also multiple logs (col. 5, lines 1-30), Ballard remains silent as to maintaining

multiple copies of the same data.

It would have been obvious to one of ordinary skill in the art at the time that the

invention was made to modify Ballard to include maintaining multiple copies of data,

since it has been held that mere duplication of the essential working parts of a device

involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.*

Referring to claim 9, Ballard discloses transferring at least a portion of the record

of events to multiple data sites, wherein each data site includes a data store, wherein

each data store includes at least a portion of the data (processed launch access log entries are stored/transferred to an application program and a RAM cache, Abstract; col. 2, lines 22-36; col. 3, lines 40-63), and using the transferred at least a portion of the record of events to update the data at the data stores (the RAM cache is updated using the processed, sorted launch access log entries, col. 8, lines 15-21).

Referring to claim 10, Ballard discloses that at least one data site receives events from two or more data sites (launch accesses are obtained from multiple programs and recorded in multiple log files, col. 5, lines 1-9).

Referring to claim 12, Ballard discloses processing the original event log to eliminate one or more events stored thereon that have been rendered irrelevant (log file is processed to eliminate duplicate cluster accesses, Abstract; col. 2, lines 22-25; col. 7, lines 15-45).

7.   Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard as applied to claim 1 above, and further in view of US Publication Number 2004/0073887 by Leymann et al (hereafter Leymann).

Referring to claims 2 and 3, Ballard discloses all of the above claimed subject matter, however remains silent as to excluding some of the events from being stored in the event log (claim 2), and furthermore, allowing a user to define which events are excluded (claim 3).

However, Leymann teaches analogous art that includes excluding some events from being stored in an event log (claim 2) (Abstract; para. 2, and 5-8), and furthermore, allowing a user to define which events are excluded (claim 3) (para. 8, 18, 19, and 25-28).

It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Ballard to include excluding some events from being stored in an event log and allowing a user to define which events are excluded, as taught by Leymann.

The ordinary skilled artisan would have been motivated to modify Ballard per the above for the purpose of collecting only those received requests that are of interest (Leymann, para. 8).

8.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard as applied to claim 4 above, and further in view of US Patent 6,052,695 issued to Abe et al (hereafter Abe).

Referring to claim 5, Ballard discloses all of the above claimed subject matter, however remains silent as to the application program being part of a messaging network.

However, Abe teaches analogous art that includes an application program being part of a messaging network (Abstract; col. 9, lines 48-63; Fig. 1; col.10, lines 57-63).

It would have been obvious to one of ordinary skill in the art at the time that the

invention was made to modify Ballard to include an application program being part of a

messaging network, as taught by Abe.

The ordinary skilled artisan would have been motivated to modify Ballard per the

above for the purpose of interchanging signal messages related to transactions in order

to process the transactions requested by the messages (Abe, Abstract; col. 9, lines 58-

60; col. 10, lines 57-63).

9.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard,

as applied to claim 1 above.

Referring to claim 6, Ballard discloses all of the above and also discloses

updating a secondary data store (refer to discussion of claim 1 above), however Ballard

fails to teach updating multiple secondary data stores.

It would have been obvious to one of ordinary skill in the art at the time that the

invention was made to modify Ballard to include updating multiple secondary data

stores, since it has been held that mere duplication of the essential working parts of a

device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co., 193*

USPQ 8.

Conclusion

10.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cheryl M Fernandes who can be reached on (571) 272-

4018. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number

for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

September 23, 2005
CMF

UYEN LE
PRIMARY EXAMINER